

## **RECORDS MANAGEMENT COMMITTEE**

Information Technologies Conference Room, 5th Floor, City Hall

400 Stewart Avenue, Las Vegas, Nevada

CITY OF LAS VEGAS INTERNET ADDRESS: <http://www.ci.las-vegas.nv.us>

**June 8, 2001**

**1:30 p.m.**

**CALL TO ORDER:** City Clerk Ronemus called the meeting to order at 1:33 p.m.

**ATTENDANCE:** Barbara Jo (Roni) Ronemus, City Clerk  
Doug Selby, Deputy City Manager  
John Redlein, Assistant City Attorney (Arrived 1:39 p.m.)  
Mark Vincent, Director, Finance & Business Services  
Joseph Marcella, Director, Information Technologies (Arrived 1:35 p.m.)  
Richard Goecke, Director, Public Works  
David Riggleman, Director, Communication Services (Arrived 1:37 p.m.)  
Radford Snelding, City Auditor  
Sharon Kuhns, Records Administrator  
Ted Schnoor, Building & Safety  
Chris Peterson, Building & Safety  
Cynthia Sell, Planning & Development  
Linda Owens, Deputy City Clerk

**ANNOUNCEMENT MADE RE COMPLIANCE WITH THE OPEN MEETING LAW - Meeting noticed and posted at the following locations:**

Downtown Transportation Center, City Clerk's Board  
Senior Citizens Center, 450 E. Bonanza Road  
Clark County Government Center, 500 S. Grand Central Pkwy  
Court Clerk's Bulletin Board, City Hall  
City Hall Plaza, Posting Board

(1:33)

**1-1**

### **BUSINESS:**

**A. APPROVAL OF FINAL MINUTES BY REFERENCE OF THE RECORDS MANAGEMENT COMMITTEE MEETING OF MAY 18, 2001.**

**SNELDING - Motion to APPROVE – VINCENT - seconded the motion – UNANIMOUS with Marcella excused**

(1:34)

**1-26**

**B. DISCUSSION AND POSSIBLE ACTION ON COMMENTS RECEIVED ON THE DRAFT PUBLIC RECORDS ACCESS POLICY AND PROCEDURE/PROPOSED RESOLUTION.**

Chair Ronemus noted that there have been comments received from various departments in regard to the Policy and Resolution as follows:

Michael Sheldon of Detention & Enforcement replied that he had no changes or additions.

Sharon Segerblom of Neighborhood Services also affirmed that she had no changes or additions.

Claudette Enus of Human Resources advised that she has talked to the Union and they were to get back to her with information regarding any position they may have. They were given the opportunity to respond, but failed to do so as of this date.

Lesa Coder of the Office of Business Development responded and addressed the \$1.00 per page issue. She suggested that perhaps it could be \$1.00 per page for the first 10 pages and then 5 cents per page thereafter. As to the third paragraph involving a reasonable fee for the time required to research documents, she suggested a standard fee be set by the department head. She had been charged \$45.00 per hour at the County.

Paul Wilkins of Building & Safety replied that producing plans that bear an architect or engineer's stamp have always been considered proprietary, some are even copyrighted. Ron LaBar of Building & Safety indicated that Val Steed's view was to go ahead and copy the plans and leave the onus of misuse on the individual that received the copied plans. However, he still believes this is unclear and has asked that the issue be clarified, or at the very least, request a written opinion from the City Attorney's Office.

Ms. Peterson added that in the past it has been the City Attorney's reluctance to put a misuse of plans in writing, which makes it the responsibility of Building & Safety in handling the plans. She questioned their liability. Assistant City Attorney Redlein added that there are specified purposes for which it is all right to copy copyright material, such as for researching, studying, reporting, etc. He gave the example of an applicant coming to the City and saying that he saw a house, has the address, and requested the plans be pulled so he could build a similar house. The City could refuse in that case. There are two copyright infringements: one is laying copyrighted material on the Xerox machine with the intention of using it for something other than one of the itemized purposes. The applicant would be stealing the design causing the second copyrighted infringement. The City would be involved in Count 1 and Count 2. It is not the responsibility of the City to ask the purpose of the requested plans. Sometimes the applicant should be told the plans are not reproducible.

Ms. Sell wondered if a warning about copyrighted materials could be added on the request form that puts the liability on the requestor, which is done in libraries. Assistant City Attorney Redlein responded that it would be difficult to keep requestors from tampering with their public request form for the in-house documents. The request form becomes their record of compliance with their request. However, a warning could be placed on the request form. It is usually irrelevant in most instances because documents such as inspection sheets, building permits, etc., are public records. Although a personnel document is a public record, the City could refuse to provide it. Another situation could be if a person requests the names of children in a Safe Key Program. That is public record, but the requestor would need to have a good reason and show identification. The City Attorney's Office can be contacted for clarification if the employee is unsure whether a document could be given out.

Chair Ronemus questioned whether it is the employees responsibility to ask the reason for the request. Copyrighted language could be placed on the request form and that would keep employees from having to ask the reason for the request, which could possibly be for an illegal purpose.

Mr. Schnoor felt the bottom line is whether the City has any liability if an architect, etc., comes back to the City. Assistant City Attorney Redlein thought there is no liability, unless there is a reason to believe there would be a wrongful use.

Mr. Schnoor gave the example of an individual wanting to use plans as part of a design for an addition onto a building. Would that be considered research? Assistant City Attorney Redlein replied that it would probably be considered research. If an architect owns a design, someone could use his/her plans for construction purposes. Mr. Schnoor clarified that if an individual wants to copy plans because they want to use them exactly the way they are, then the City has to decline. Other than that, there will be a copyright warning on the request form. Assistant City Attorney Redlein thought that might scare some people or make them more clever when asking for the plans, but employees don't have to turn into detectives.

Mr. Schnoor noted the City receives forms from the State Contractors Board indicating the requestor is only going to build a resident structure and live in it for one year prior to selling it. The policy in Building & Safety is that if a design is done by an architect, engineer, etc., permission has to be obtained from the person who drew the plans, which is either received via telephone or letter. Mr. Selby added that usually engineers, architects, etc., are concerned about the reuse of their plans, rather than just copies. Chair Ronemus thought that permission to use plans should also be added to the general form.

She continued the discussion in regard to Building & Safety's concern on page 4, paragraph 2, of the Procedure. This paragraph directs staff to fill out a request form on behalf of a requestor if he/she is unwilling to do so. Because 90% of Building & Safety's requests are of an extraordinary nature and can typically cost hundreds or thousands of dollars, it would be too easy for a requestor to turn around and deny having made the request or that it was inaccurately recorded. They would like to have the sentence reworded to say "*staff may complete*" instead of "staff is to complete." That would leave it to the discretion of the department. Assistant City Attorney Redlein added that if the requestor prefers not to fill out a request form, he should be told there will be a financial obligation. Chair Ronemus felt staff should encourage the requestor to fill out the form themselves. Assistant City Attorney Redlein thought sometimes the document can be provided faster than the form can be filled out. However, the form is a good tracking mechanism. Chair Ronemus noted that the tracking could be through the receipts.

Chair Ronemus continued with Item 3 under Building & Safety's concerns. That referred to page 6 pertaining to compilation of information from one department to another ensuring correct fund/account coding. Ms. Kuhns said that is on page 8 and should be moved to the bottom of page 6 to include: "*Payment for public records provided by an Enterprise Fund will be picked up and paid for at the division location.*" Chair Ronemus agreed to placing that on the bottom of page 6 under Non-Routine Public Record Requests and Extraordinary Public Record Requests on page 7. Mr. Goecke noted that Public Works reproduces plans all the time in the Plans Library. The amount of money taken in is oftentimes minimal and not of a great concern to him. Chair Ronemus suggested changing the wording to "*may be picked up*" instead of "will be picked up" and paid for at the division location. Mr. Vincent was concerned that a department receive proper credit to their account. Chair Ronemus said that a note could be added to the Non-Routine Request and Fee Schedule.

Chair Ronemus said Building & Safety's Item 4 in regard to page 7, paragraph 2, refers to providing a payment in full cost will be difficult because of the volume of documents. If the request is overestimated, then the requestor should fill out a request for a refund, which takes about 4 weeks to be processed through the Finance Department. Mr. Wilkins suggested providing a "best guess" estimate once the request has been reviewed and a required 50% deposit. Mr. Selby suggested rephrasing that to "*paid in full based on the estimated amount.*" Ms. Peterson commented that a lot of their extraordinary requests are very large. For example, if they estimated a request at \$5,000, they would not start the work until they received \$2,500. After the work is completed and the expense involved only comes to \$2,000, then a refund would be due the requestor and 4 weeks is a long time to wait to receive the money.

Mr. Schnoor explained one of their situations where a request involved 120 homes and 20 to 30 documents per address. They took the higher number of homes times 30 and did a time estimate, including the time it took to make the estimate. They figured the job would cost between \$9,000 and \$10,000, so they requested a \$5,000 deposit. As soon as the law firm making the request heard the amount of money involved, the next day they felt they only needed documents for three addresses and it took 20 minutes to retrieve the information. It takes staff time to process refunds.

Chair Ronemus noted on the Routine Public Record Requests it is indicated that the person who requests copies is to be advised if the cost of reproduction exceeds \$25.00 and that payment in full will be required to process the requests which cost over \$25.00.

Ms. Peterson added that when an estimate is given of perhaps \$5,000 the requestor needs to understand it is half the cost. The requestor should bring in a \$5,000 check because it doesn't take more staff time and the customer does not have to wait to receive a refund check from the Finance Department if the job is overestimated. Mr. Selby noted that attorneys and developers are usually the ones requesting a large number of documents. Assistant City Attorney Redlein noted that it becomes more hazardous to estimate a big request. Perhaps money could be required for the minimum amount of the estimate. He suggested saying to the requestor that it is unknown how much the request will cost, but indicate the minimum amount, and not insist on a check for the total estimate.

Chair Ronemus said under Extraordinary Public Record Requests that it should state: One who requests copies is to be advised if the cost of reproduction exceeds \$25.00 and that payment *of the minimum estimated amount* will be required to process the request.

Mr. Vincent felt it would be difficult to avoid adjustments after the job is completed.

Mr. Schnoor asked about requests received from other governmental agencies. Mr. Vincent responded that there is a policy whereby it is a reciprocal agreement and determined within each department on a case-by-case basis at the Directors discretion.

Mr. Schnoor gave the example whereby documents have been requested by a law firm involved in a large lawsuit and Building & Safety has received a request for the same documents from three different law firms for the same building because contractors, architects, etc., are all involved in the same lawsuit.

Mr. Rigglesman referred to page 5 under Routine Public Record Requests, bullet 5, and asked if records have to be provided within one working day of the request because sometimes that is not possible. Assistant City Attorney Redlein suggested wording stating *immediately, if possible, or within three working days*.

Mr. Goecke said Public Works receives routine traffic reports from Metro. They are filed by location. To find all the accidents that occurred in the previous week, his staff would have to go through every accident report at every location. That could take a lengthy period of time.

Assistant City Attorney Redlein said those accident reports are public record, but the requestor should be encouraged to obtain those reports from Metro and also scare the person by estimating the cost.

Ms. Sell asked about the turnaround time for City Council and Planning Commission meeting document(s). Chair Ronemus did not have a problem with advising the requestor the document(s) would be provided as soon as possible, if it is within the law. That would apply to easily-accessible routine requests. The above-noted accident reports would not fall within routine requests. Mr. Riggleman added that not only will the record need to be pulled, but sometimes it is going through the record to determine what is of interest that needs to be interpreted. Chair Ronemus did not feel public records need to be interpreted. Each department should have a staff member that is knowledgeable on records for that department. Ms. Sells said oftentimes there are other priorities than pulling records in a short time period. Mr. Selby noted that on page 6 under Non-Routine Public Record Request it states: Records will be provided within one day if possible. If additional time is required, the requestor will be informed accordingly. That could be placed on page 5. Chair Ronemus pointed out that under NRS 239 it states three days for microfilm. Mr. Riggleman was comfortable with three days, or sooner if possible. Ms. Sell said that in the Planning and Development Department when they cannot reproduce a document(s) in one day they advise the requestor to come into the office and view the document(s). Assistant City Attorney Redlein felt three days is adequate, but if it is going to take longer the requestor should be advised accordingly. Chair Ronemus indicated that one day to provide a document and three days if it is on microfilm was decided by a committee several years ago. NRS 239 has not been changed at all. If it is strictly policy, this committee can change the time, but if it is law, then it cannot be changed. However, under Non-Routine Public Record Request the fourth bullet should be moved to page 5, but also to remain on page 6: *Records will be provided within one day if possible. If additional time is required, the requestor will be informed accordingly. If the records are maintained on microfilm, copies should be made within three working days.* She felt additional research needs to be done on this issue to determine if it should remain that documents in microfilm are to be provided within three working days or that should be deleted.

Mr. Riggleman felt under Routine Public Record Requests that the first sentence under requests from the Media as indicated on page 5 should read as follows: *Requests from the Media will include notification to the Office of Communications.* The remainder of the paragraph should remain as written. The committee members concurred with that amendment.

Mr. Riggleman clarified the last paragraph on page 6 as follows: *If the requestor is a member of the Media, please refer them to the Office of Communications. The Office of Communications will coordinate the compilation of information among the various departments and will provide it to the Media. Departmental Public Information Officers with questions about a Media request should contact the office of the Director of Communications for a determination on how to proceed.* The committee members concurred with that amendment.

Mr. Riggleman referred to the third paragraph on page 7 and clarified it as follows: *If the requestor is a member of the Media, please refer them to the Office of Communications. The Office of Communications will coordinate the compilation of information, notify the requestor of the fees involved, and will provide it to the Media. Departmental PIOs with questions about a Media request should contact the Office of Communications for a determination on how to proceed.* The committee members concurred with that amendment.

Mr. Riggleman continued with reference to the Alternate Fee Schedule on page 8. He asked why there is a Resolution for public record reproduction requests that involve variable costs be brought before the City Council. Chair Ronemus responded that the paper fees would come before the Records Management Committee for a deviation from the \$1.00 per page. Ms. Kuhns said it would be agreeable to have the Media fees in that same presentation. Chair Ronemus wanted to keep the Resolution for paper copying, videos, etc., are handled separately. Mr. Marcella felt the Resolution could be modified to bring Mr. Riggleman back into the fold. Chair Ronemus questioned whether the Records Management Committee wants to consider the media costs for public records requests supplied on anything but paper. The committee was just to be a central repository for what the different departments were charging for media and deviation from the Resolution. Mr. Riggleman will have to go back to the City Council to change the Communication Department fee schedule when there is a need to do so. Chair Ronemus noted that an item that the committee discussed previously was maintaining a list of the other types of fees that are within the City so there is some consistency. Mr. Selby pointed out that the Resolution under Attachment B states: *Resolution supersedes Resolution R-117-95.* Mr. Riggleman clarified that this committee would consider any copying fee changes, not the City Council, upon adoption of the Resolution.

Chair Ronemus asked what the committee thought about Lesa Coder's suggestion of charging \$1.00 per page for the first 10 pages and 5 cents a page thereafter. Assistant City Attorney Redlein felt if it was one document he would not object to charging \$1.00 for the first 20 pages and 5 cents thereafter, but if it were different documents he would object. Mr. Vincent thought the committee had decided on \$1.00 per page, except on non-routine as opposed to routine requests. Chair Ronemus said there is a court ruling and wondered if it would affect the ability to charge for an employee's time for a public records request.

Assistant City Attorney Redlein explained that there was an article in the newspaper where Metro wanted to charge \$4.00 a page for prints from a crime scene that were being subpoenaed. He explained the circumstances of the incident, which was a shooting at a bar and the back door of the bar was left open. He heard that the judge said the charge was excessive and there was a feeling that the motion of creating the crime by leaving the back door open was inappropriate. He did not know what the appropriate charge should be in that case.

Chair Ronemus noted that NRS allows for cost recovery. Ms. Kuhns quoted from NRS about actual costs: May charge a fee for providing a copy of a public record. She read that a government entity may in addition to other fees authorized charge a fee for such extraordinary use. Upon receipt of the request the government entity shall inform the requestor the amount of the fee before preparing the requested information. The fee charged by the government entity must be reasonable and must be based on the cost that the government entity actually incurs for an extraordinary use of its personnel or technological resources. The government entity shall not charge a fee if the government entity is not required to make use of extraordinary use of its personnel or technology resources.

*The committee decided to remain with the charge of \$1.00 per page.*

Chair Ronemus requested Ms. Sells to provide the proposed fee schedule used in the Planning & Development Department once the new Resolution was adopted.

Chair Ronemus referred to the Memorandum from Diana Ortiz to Keith Gronquist in regard to Municipal Court. Mr. Marcella noted that judges can determine their own retention schedule. Assistant City Attorney Redlein added that other than that a judge has limited ability to seal a record, depending on its confidentiality. Most of the public records in Municipal Court are not confidential. He requested Ms. Kuhns to call Diane Ortiz and advise her that the City Attorney said there is not much in their records that is confidential, so she should provide a list of what would be considered confidential. Motions, complaints, court minutes, etc., should be mentioned to her.

Chair Ronemus summarized that these changes discussed at this meeting will be compiled. However, there are still some departments that have not responded to the draft Public Records Access Policy and Procedure/Proposed Resolution. This item should be held in abeyance until the June 29, 2001 meeting, at which time all the comments should have been received from the departments and this should be finalized.

There was no further discussion.

**RONEMUS - Motion to hold in abeyance to June 29, 2001 meeting - MARCELLA - seconded the motion - UNANIMOUS**

(1:35 – 3:10)

C. DISCUSSION AND POSSIBLE ACTION ON A PROPOSED PLAN OF ACTION AND PROCEDURE FOR REVIEW AND APPROVAL OF SUBMITTED RETENTION SCHEDULES FROM CITY DEPARTMENTS.

Ms. Kuhns felt this item should be held in abeyance.

There was no further discussion.

**MARCELLA - Motion to hold in abeyance to June 29, 2001 meeting - SNELDING - seconded the motion - UNANIMOUS**

(3:10 – 3:11)

**2 - 28**

D. UPDATE, DISCUSSION AND POSSIBLE ACTION ON REVISION OF MUNICIPAL CODE CHAPTER 2.60 RECORDS MANAGEMENT.

Chair Ronemus said the Records Management bill that was sent to the committee members was not up to date. The draft dated 6/08/01 is the one that should be reviewed. She suggested this item should also be held in abeyance.

Ms. Kuhns advised that current bill is in the backup with all the approved changes for the sections on department directors and committee members. It was brought back to the committee to go over the definitions.

**RONEMUS - Motion to hold in abeyance to June 29, 2001 meeting - SELBY - seconded the motion - UNANIMOUS**

(3:11 - 3:12)

**2 - 300**

CITIZENS PARTICIPATION:

None.

ADJOURNMENT:

**VINCENT - Motion to ADJOURN – SELBY - seconded the motion - UNANIMOUS**

The meeting adjourned at 3:12 p.m. **(2 - 345)**

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